

### **Remarks**

This Amendment is submitted in response to the non-final Office Action mailed on January 9, 2006. Claims 1-6 are pending before the Amendment. Claims 1, 3, 4, and 6 have been amended and claims 2 and 5 have been cancelled. Applicants respectfully submit that this application is in complete condition for allowance and request reconsideration of the application in this regard.

### **Applicants' Affidavit under 37 CFR 1.131 filed on January 20, 2006**

The January 9, 2006 Office Action contends on page 2 that Applicants' affidavit filed on January 20, 2006 is ineffective to antedate U.S. Patent No. 6,893,077 to DeJongh (hereinafter *DeJongh*) because Applicants' affidavit allegedly "lacks evidence as to the alleged acts were carried out in this or a NAFTA country." Applicants are referred in the Office Action to consult MPEP 715.07(c). Applicants respectfully disagree with this contention.

MPEP 715.07(c) requires that the 37 CFR 1.131 affidavit or declaration "must contain an allegation that the acts relied upon to establish the date prior to the reference or activity were carried out in this country or in a NAFTA country or WTO member country." In contrast to the contention in the January 9, 2006 Office Action, MPEP 715.07(c) fails to expressly require "evidence" that the acts relied upon to establish the date prior to the reference or activity were carried out in this country or in a NAFTA country or WTO member country. Applicants unambiguously provide the required allegation on at least pages 2 and 5 of the affidavit filed on January 20, 2006 that the acts were performed in the United States. Consequently, Applicants respectfully submit that the affidavit filed on January 20, 2006 suffices

to overcome *DeJongh*. Applicants request that the Examiner reconsider Applicants' affidavit filed on January 20, 2006 in this regard.

### **Rejections under 35 USC § 102**

#### **Claims 1 and 4 over DeJongh**

Claims 1 and 4 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,893,077 to DeJongh (hereinafter *DeJongh*). Applicants' affidavit filed on January 20, 2006 establishes that Applicants invented the claimed subject matter before the filing date of *DeJongh* (March 18, 2004) relied upon in the rejection. Attached to the affidavit filed on January 20, 2006 is a photocopy of an original exhibit consisting of a written invention disclosure with annotated drawings. Applicants' showing of facts is, in character and weight, sufficient to establish that the inventors conceived a door trim panel that embodies the features and advantages of the present invention, as claimed in the '305 application, in the United States prior to the effective date of *DeJongh*. Consequently, Applicants submit that U.S. Patent No. 6,893,077 (i.e., *DeJongh*) is no longer a valid reference under 35 U.S.C. § 102(e) and respectfully request that the rejection be withdrawn.

#### **Claims 1 and 4 over APA**

Claims 1 and 4 stand rejected under 35 U.S.C. § 102(e) as anticipated by the prior art admitted by applicant (APA). Applicants have amended claims 1 and 4 to incorporate the subject matter of claims 2 and 3, respectively, which are not subject to this rejection. Accordingly, Applicants request that the rejection be withdrawn.

Claims 1, 2, 4 and 5 over Konishi

Claims 1, 2, 4, and 5 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,803,415 to Konishi et al. (hereinafter *Konishi*). Claims 1 and 4 are independent claims and the subject matter of claims 2 and 5, now cancelled, has been incorporated into claims 1 and 4, respectively. The Examiner contends that *Konishi* shows all elements of the rejected claims. Applicants respectfully disagree for the reasons set forth below.

In contrast to amended independent claim 1, *Konishi* fails to disclose or suggest that the armrest includes “first and second side edges, a surface between said first and second side edges, a plurality of spaced-apart projections projecting from said surface to contact said support surface to thereby support said armrest, and a plurality of spaced-apart locking tabs projecting from said first and second side edges and engaged with said plurality of tab openings.” The Examiner contends that the armrest (4) in *Konishi* includes projections (5b) that couple with openings (3b) and locking tabs at the terminal end of the projections (5b). However, the armrest (4) in *Konishi* fails to include locking tabs that project from a side edge of the armrest (4). Instead, the locking tabs identified by the Examiner are located on the terminal ends of the projections (5b) that the Examiner asserts contact the support surface.

In order for a reference to anticipate the invention in a claim, the reference must teach each and every element in the precise arrangement set forth in the claim. If the reference fails to teach even one of the claimed elements, the reference does not and cannot anticipate the claimed invention. Because *Konishi* fails to disclose projections projecting from the surface of the armrest between the side edges and a plurality of spaced-apart locking tabs projecting from the first and second side edges of the armrest, *Konishi* fails to anticipate claim 1. Consequently, Applicants request that the rejection be withdrawn.

Independent claim 4, which has been amended in a manner analogous to the amendments made to claim 1, is patentable for at least the same reasons as independent claim 1, as discussed above.

### **Rejections under 35 USC § 103**

#### **Claims 1-6 over Janz in view of DeJongh**

Claims 1-6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,456,644 to Janz et al. (hereinafter *Janz*) in view of *DeJongh*. As mentioned in the preceding remarks, Applicants' affidavit filed on January 20, 2006 establishes that Applicants invented the claimed subject matter before the filing date of *DeJongh* (March 18, 2004) relied upon in the rejection. Consequently, Applicants submit that U.S. Patent No. 6,893,077 (i.e., *DeJongh*) is no longer a valid reference under 35 U.S.C. § 102(e) and respectfully request that the rejection be withdrawn.

#### **Claims 1-6 over Janz in view of DeJongh**

Claims 1-6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Janz* in view of U.S. Patent No. 6,899,363 to Dry (hereinafter *Dry*). The '305 application and U.S. Patent No. 6,899,363 were, at the time the invention of the '305 application was made, owned by Lear Corporation. The executed assignment document for U.S. Patent No. 6,899,363 is recorded at Reel 013789, Frame 08790 and the executed assignment document for the '305 application is recorded at Reel 014801, Frame 0850. Consequently, *Dry* is disqualified from being used in a rejection under 35 U.S.C. §103(a) against the claims of the '305 application by virtue of 35 U.S.C. §103(c). Applicants therefore request that this rejection be withdrawn.

Claims 4 and 5 over APA in view of Konishi

Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over APA in view of *Konishi*. The Examiner contends on page 6 of the February 9, 2006 Office Action that it would have been obvious to modify APA with the armrest attachment as taught by *Konishi* “in order to securely attach.” Applicants respectfully traverse this rejection.

As mentioned above, Applicants’ amended independent claim 4 sets forth that the armrest includes “first and second side edges, a surface between said first and second side edges, a plurality of spaced-apart projections projecting from said surface to contact said support surface to thereby support said armrest, and a plurality of spaced-apart locking tabs projecting from said first and second side edges and engaged with said plurality of tab openings.” APA fails to disclose that the armrest includes the locking tabs projecting from the side edges of the armrest. *Konishi* fails to correct this deficiency of APA as the locking tabs identified by the Examiner in *Konishi* are located at the terminal end of projections that extend from a surface between the side edges of the armrest. Consequently, the combination of APA with *Konishi* fails to disclose all features of claim 4. For at least this reason, the Office Action fails to support *prima facie* obviousness. Applicants respectfully request that the rejection be withdrawn.

Applicants further submit that the Office Action fails to provide a sufficient motivation or suggestion to modify APA in the suggested manner. Specifically, the Examiner’s stated rationale is to provide secure attachment. APA describes that the armrest and a separate substrate are assembled as a sub-assembly and that this sub-assembly of armrest and substrate is attached to a bolster. APA also discloses a separate substrate that reinforces and supports the nibbed armrest. *Konishi* discloses the use of mounting tabs but fails to disclose the use of

mounting tabs on the armrest and projections also on the armrest that space the armrest from the bolster. Instead, *Konishi* discloses a separate member (4) that spaces the armrest from the bolster. Consequently, modifying the nibbed armrest of APA as taught by *Konishi* would change the principle of operation of APA being modified as *Konishi* teaches providing the separate member (4) if the projections on the armrest are functioning as mounting tabs. This attempted change in the principle of operation is prohibited under MPEP 2143.01(IV). Moreover, the intervening separate substrate of APA would prevent the projections from being used as mounting tabs, as disclosed in *Konishi*. A person having ordinary skill in the art would not modify APA as suggested by *Konishi* because the nibbed armrest in APA is supported on a separate substrate and, even if the nibbed armrest of APA was modified with mounting tabs, the substrate would intervene between the nibbed armrest and bolster so that the mounting tabs could not be engaged with corresponding openings in the bolster. Consequently, the Office Action fails to support *prima facie* obviousness. For at least this additional reason, Applicants respectfully request that the rejection be withdrawn.

### **Conclusion**

Applicants have made a bona fide effort to respond to each and every requirement set forth in the Office Action. In view of the foregoing remarks, this application is submitted to be in complete condition for allowance and, accordingly, a timely notice of allowance to this effect is earnestly solicited. If there is any additional matter that may be resolved by telephone or fax, the Examiner is invited to contact the undersigned to expedite issuance of this application.

Applicants do not believe that any fees are due in connection with this submission. However, if such petition is due or any fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,

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